



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 28, 1998

Ms. Julie Ross
Haynes and Boone, L.L.P.
201 Main Street, Suite 2200
Fort Worth, Texas 76102-3126

OR98-2526

Dear Ms. Ross:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your requests were assigned ID#s 119156, 120438, and 120464. We have combined these files and considered the issues presented in this single ruling assigned ID# 119156.

The City of Coppel (the "city") received three requests for various information, including the personnel file of a specific police officer. You state that the personnel file contains a memorandum which you believe is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted memorandum.¹

We note that the city has not sought an open records decision from this office within the statutory ten-day deadline. *See* Gov't Code § 552.301. The city's delay in this matter results in the presumption that the submitted information is public. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ). In order to overcome the presumption that the submitted information is public, a governmental body must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381. The applicability of section 552.101 provides such a compelling reason.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 of the Government Code also applies to information made confidential by the common-law right

¹You have not submitted the other requested items for our review. Therefore, we presume that you have released this information to the requestors.

to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.* After reviewing the submitted document, we conclude that the information is not protected by common-law privacy. *See also* Open Records Decision No. 444 (1986) (public has legitimate interest in knowing reasons for dismissal, demotion, promotion, or resignation of public employees).

We note, however, that some of the submitted information is confidential by law. Section 552.117 of the Government Code provides that information is excepted from disclosure if it relates to a peace officer's home address, home telephone number, social security number, or reveals whether the peace officer has family members. *Cf.* Open Records Decision Nos. 622 (1994) (section 552.117 excepts from disclosure former home addresses and former home telephone numbers), 455 (1987). We have marked the information that must be withheld under section 552.117(2). The remaining information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 119156

Enclosures: Submitted documents

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